the policies did not pass to the trustee. *Burlingham* v. *Crouse* (1910), — C. C. A. 2nd Cir. —, 181 Fed, 479.

The reason assigned for the holding of the court was, that as the bankrupt himself could obtain nothing by a surrender of the policies, there was nothing to pay to the trustee in place of the money obtainable from such surrender, and, that it would be contrary to the intent of Congress to hold, that under § 70 a of the Bankruptcy Act of 1898, the policies passed unless someone paid $15,000 to the trustee in addition to the $15,000 payable to the insurance company to release their lien. It is apparently well settled that all property of value belonging to the bankrupt passes to the trustee, under § 70 a of the Bankruptcy Act, including insurance policies which give to the insured bankrupt a vested or contingent property right. *In re Slingluff,* 5 Am. B. R. 76, 106 Fed. 154; *In re Coleman,* 14 Am. B. R. 461, 136 Fed. 818; *In re Orear,* 24 Am. B. R. 343, 178 Fed. 632. The converse of this proposition is equally well settled, viz., that if the insurance policy is of no actual value, and nothing can be realized, either by a surrender, or by a sale of the policy, there is nothing to pass to the trustee. *Gould* v. *N. Y. Life Ins. Co.,* 13 Am. B. R. 233, 132 Fed. 927; *In re Buelow,* 3 Am. B. R. 389, 98 Fed. 86, REMINGTON, BANKRUPTCY, § 1012. From such a proposition, the holding in the principal case easily follows. If the intent of Congress, with regard to the proviso of § 70 a, cl. 5, of the Act of 1898, allowing the redemption by the bankrupt, of policies with a cash surrender value, is that such proviso was enacted solely for the benefit of the unfortunate debtor, then undoubtedly the above holding is sound. It would certainly not aid the bankrupt's creditors to have such a policy pass to the trustee when its entire cash surrender value would be absorbed by the insurance company's lien. While on the other hand it would be inflicting a hardship upon the bankrupt to take from him the policies and force him, on account of his advanced age to run the risk of not being able to secure further insurance or at least having to pay a much higher premium. That the intent of Congress, in enacting the above proviso was to aid the unfortunate debtor, see, *In re Welling,* 7 Am. B. R. 340, 113 Fed. 189; *Holden* v. *Stratton,* 14 Am. B. R. 100, 198 U. S. 213; *Gould* v. *N. Y. Life Ins. Co.,* supra.

BANKRUPTCY — PROVABLE DEBTS — CONTINGENT CLAIMS — LANDLORD AND TENANT.—A lease provided that in case the lessee should become bankrupt the lease should terminate, the lessor should have a right to reenter and the lessee should pay the difference between the rent reserved in the lease, and the rent the lessor should by the use of due diligence be able to obtain under a new lease. The lessee became bankrupt and the petition was filed. Five months later a new lease was obtained at $525 less than the rent of the old lease. The loss for the five months was $1,250. The appellant presented a claim for $1,775 against the bankrupt estate. *Held,* that the claim was not provable. *In re Roth and Appel* (1910), — C. C. A. 2nd Cir. —, 181 Fed. 667.

Considering the above claim as contingent, it is certainly not provable under § 63 a of the Bankruptcy Act of 1898. *In re Mahler,* 5 Am. B. R. 457,

105 Fed. 428; *In re Numan,* 171 Fed. 185; COLLIER, BANKRUPTCY, Ed. 7, p. 720. That it is a contingent claim would appear to readily follow from the application of the usual test of contingency, viz., have all the facts necessary to be proved, to fasten liability, already occurred? REMINGTON, BANKRUPTCY, § 641. In deciding that rents to accrue after bankruptcy are not provable claims, the Federal Courts arrive at their conclusion in two different ways. One line of decisions holds, that the lease is terminated upon the bankruptcy of the lessee, on the ground that the contractual relations and obligations of the lessee, to the lessor, are terminated at the time of adjudication, and there is therefore no subsequent duty upon the part of the bankrupt lessee to pay rent. *In re Jefferson,* 2 Am. B. R. 208, 93 Fed. 948; *In re Hays,* 9 Am. B. R. 144, 117 Fed. 879; 39 AM. L. REG. (N. S.) 656. The other holds that the relation of landlord and tenant is not terminated, as bankruptcy does not dissolve the contractual relations and obligations of the bankrupt, but a covenant to pay rent does not create a debt till the time for payment arrives, which never arrives if the right to occupy is terminated, for then the obligation to pay ceases. The obligation to pay rent is therefore entirely contingent and as such is not provable. *Watson* v. *Merrill,* 14 Am. B. R. 458, 136 Fed. 359; *In re Ells,* 3 Am. B. R. 566, 98 Fed. 967. The court in the principal case holds with the latter view. There is apparently no avoiding the conclusion, that under the provisions of the above lease the claim is contingent. It was not only uncertain as to the lessor's reentry, but also as to the re-leasing of the premises and the amount obtainable therefrom as rent.

BILLS AND NOTES—INCOMPLETE AND UNDELIVERED CHECK, COMPLETED AND NEGOTIATED BY THIEF—DELIVERY NOT PRESUMED.—P. signed a blank check, which was later stolen. The thieves filled it in, procured it to be certified by the drawee bank, and then transferred it to the defendant, a holder in due course, who collected the amount thereof from the bank. P. took up the check from the bank, and sued defendant as for money had and received. *Held,* (WOODWARD and CARR, JJ., dissenting), that § 35 of the New York Neg. Inst. Law (Consol. Laws, c. 38) must be read in connection with § 34. Delivery is not conclusively presumed, even in favor of a holder in due course, in the case of an incomplete and undelivered check, completed and negotiated without any confidence, or negligence, or fault of the drawer, but by force or fraud. *Linick* v. *A. J. Nutting & Co.* (1910), 125 N. Y. Supp. 93.

§ 34 of the Neg. Inst. Law of New York is: "Where an incomplete instrument has not been delivered, it will not, if completed and negotiated, without authority, be a valid contract in the hands of any holder, as against any person whose signature was placed thereon before delivery." § 35 of the same statute provides: "Every contract on a negotiable instrument is incomplete and revocable until delivery of the instrument for the purpose of giving effect thereto. * * * But where the instrument is in the hands of a holder in due course, a valid delivery thereof by all parties prior to him so as to make them liable to him is conclusively presumed * * *" The minority held